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### § 18.23 Judicial review.

Judicial review of final agency decisions on awards may be sought as provided in 5 U.S.C. 504(c)(2).

### § 18.24 Payment of award.

An applicant seeking payment of an award by the Department shall submit a copy of the final decision granting the award, accompanied by a certification that the applicant will not seek review of the decision in the United States courts to the General Counsel, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Room 5870, Washington, D.C. 20230. The Department will pay the amount awarded to the applicant within 60 calendar days, unless judicial review of the award or of the underlying decision of the adversary adjudication has been sought by the applicant or any other party to the proceeding.

[47 FR 13510, Mar. 31, 1982, as amended at 53 FR 6800, Mar. 3, 1988]

## PART 19—COMMERCE DEBT COLLECTION

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- 19.21 What does a Commerce entity do upon receipt of a request to offset the salary of a Commerce entity employee to collect a debt owed by the employee to another Federal agency?

AUTHORITY: 31 U.S.C. 3701, *et seq.*

SOURCE: 72 FR 18871, Apr. 16, 2007, unless otherwise noted.

### Subpart A—General Provisions

#### § 19.1 What definitions apply to the regulations in this Part?

As used in this Part:

*Administrative offset* or *offset* means withholding funds payable by the United States (including funds payable by the United States on behalf of a state government) to, or held by the United States for, a person to satisfy a

debt owed by the person. The term “administrative offset” can include, but is not limited to, the offset of Federal salary, vendor, retirement, and Social Security benefit payments. The terms “centralized administrative offset” and “centralized offset” refer to the process by which the Treasury Department’s Financial Management Service offsets Federal payments through the Treasury Offset Program.

*Administrative wage garnishment* means the process by which a Federal agency orders a non-Federal employer to withhold amounts from a debtor’s wages to satisfy a debt, as authorized by 31 U.S.C. 3720D, 31 CFR 285.11, and this Part.

*Agency or Federal agency* means a department, agency, court, court administrative office, or instrumentality in the executive, judicial, or legislative branch of the Federal Government, including government corporations.

*Commerce debt* means a debt owed to a Commerce entity by a person.

*Commerce Department* means the United States Department of Commerce.

*Commerce entity* means a component of the Commerce Department, including offices or bureaus. Commerce offices currently include the Office of the Secretary of Commerce, and the Office of Inspector General. Commerce bureaus currently include the Bureau of Industry and Security, the Economics and Statistics Administration (including the Bureau of Economic Analysis, and the Bureau of the Census), the Economic Development Administration, the International Trade Administration, the Minority Business Development Agency, the National Oceanic and Atmospheric Administration, the National Telecommunications and Information Administration, the U.S. Patent and Trademark Office, and the Technology Administration (including the National Institute of Standards and Technology, and the National Technical Information Service).

*Creditor agency* means any Federal agency that is owed a debt.

*Day* means calendar day except when express reference is made to business day, which reference shall mean Monday through Friday. For purposes of time computation, the last day of the

period provided will be included in the calculation unless that day is a Saturday, a Sunday, or a Federal legal holiday; in which case, the next business day will be included.

*Debt* means any amount of money, funds or property that has been determined by an appropriate official of the Federal Government to be owed to the United States by a person. As used in this Part, the term “debt” can include a Commerce debt but does not include debts arising under the Internal Revenue Code of 1986 (26 U.S.C. 1 *et seq.*).

*Debtor* means a person who owes a debt to the United States.

*Delinquent debt* means a debt that has not been paid by the date specified in the agency’s initial written demand for payment or applicable agreement or instrument (including a post-delinquency payment agreement) unless other satisfactory payment arrangements have been made.

*Delinquent Commerce debt* means a delinquent debt owed to a Commerce entity.

*Disposable pay* has the same meaning as that term is defined in 5 CFR 550.1103.

*Employee or Federal employee* means a current employee of the Commerce Department or other Federal agency, including a current member of the uniformed services, including the Army, Navy, Air Force, Marine Corps, Coast Guard, Commissioned Corps of the National Oceanic and Atmospheric Administration, and Commissioned Corps of the Public Health Service, including the National Guard and the reserve forces of the uniformed services.

*FCCS* means the Federal Claims Collection Standards, which were jointly published by the Departments of the Treasury and Justice and codified at 31 CFR Parts 900-904.

*Financial Management Service* means the Financial Management Service, a bureau of the Treasury Department, which is responsible for the centralized collection of delinquent debts through the offset of Federal payments and other means.

*Payment agency or Federal payment agency* means any Federal agency that transmits payment requests in the form of certified payment vouchers, or

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other similar forms, to a disbursing official for disbursement. The payment agency may be the agency that employs the debtor. In some cases, the Commerce Department may be both the creditor agency and payment agency.

*Person* means an individual, corporation, partnership, association, organization, State or local government or any other type of entity other than a Federal agency.

*Salary offset* means a type of administrative offset to collect a debt under 5 CFR 5514 by deductions(s) at one or more officially established pay intervals from the current pay account of an employee without his or her consent.

*Secretary* means the Secretary of Commerce.

*Tax refund offset* is defined in 31 CFR 285.2(a).

### **§ 19.2 Why has the Commerce Department issuing these regulations and what do they cover?**

(a) *Scope.* This Part provides procedures for the collection of Commerce debts. This Part also provides procedures for collection of other debts owed to the United States when a request for offset of a payment for which Commerce is the payment agency is received by the Commerce Department from another agency (for example, when a Commerce Department employee owes a debt to the United States Department of Education).

(b) *Applicability.* (1) This Part applies to the Commerce Department when collecting a Commerce debt, to persons who owe Commerce debts, to persons controlled by or controlling persons who owe Federal agency debts, and to Federal agencies requesting offset of a payment issued by the Commerce Department as a payment agency (including salary payments to Commerce Department employees).

(2) This Part does not apply to tax debts nor to any debt for which there is an indication of fraud or misrepresentation, as described in §900.3 of the FCCS, unless the debt is returned by the Department of Justice to the Commerce Department for handling.

(3) Nothing in this Part precludes collection or disposition of any debt

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under statutes and regulations other than those described in this Part. See, for example, 5 U.S.C. 5705, *Advancements and Deductions*, which authorizes Commerce entities to recover travel advances by offset of up to 100% of a Federal employee's accrued pay. See, also, 5 U.S.C. 4108, governing the collection of training expenses. To the extent that the provisions of laws, other regulations, and Commerce Department enforcement policies differ from the provisions of this Part, those provisions of law, other regulations, and Commerce Department enforcement policies apply to the remission or mitigation of fines, penalties, and forfeitures, and to debts arising under the tariff laws of the United States, rather than the provisions of this Part.

(c) *Additional policies and procedures.* Commerce entities may, but are not required to, promulgate additional policies and procedures consistent with this Part, the FCCS, and other applicable Federal law, policies, and procedures, subject to the approval of Deputy Chief Financial Officer.

(d) *Duplication not required.* Nothing in this Part requires a Commerce entity to duplicate notices or administrative proceedings required by contract, this Part, or other laws or regulations, including but not limited to those required by financial assistance awards such as grants, cooperative agreements, loans or loan guarantees.

(e) *Use of multiple collection remedies allowed.* Commerce entities and other Federal agencies may simultaneously use multiple collection remedies to collect a debt, except as prohibited by law. This Part is intended to promote aggressive debt collection, using for each debt all available and appropriate collection remedies. These remedies are not listed in any prescribed order to provide Commerce entities with flexibility in determining which remedies will be most efficient in collecting the particular debt.

(f) All citations in this Part, such as to statutes, regulations and the Department of Commerce Credit and Debt Management Operating Procedures Handbook, are intended to be references to cited sources as each currently stands and as each may be amended from time to time.